

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF NEW YORK

JUSTIN WEKENMANN,

Plaintiff,

V.

Case No. 1:19-cv-1572

SIMON BIEGASIEWICZ,  
MATTHEW NOECKER, and  
COUNTY OF ERIE,

Defendants.

**ORDER ON MOTION FOR APPOINTMENT OF MEDIATOR AND  
MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY  
(Docs. 26, 27)**

This case, removed from New York Supreme Court, Erie County, involves allegations that Defendants Simon Biegasiewicz, the Erie County Sherriff's Office, Matthew Noecker, and the County of Erie violated Plaintiff Justin Wekenmann's constitutional rights and committed various torts during Plaintiff's arrest, detention, and prosecution for driving while intoxicated. (Doc. 1.) On December 3, 2019, Defendants moved to dismiss all claims. (Docs. 4, 5, 6.) In an order dated January 4, 2021, the court dismissed all counts against the Erie County Sheriff's Office, Counts 2, 3, and 5 (false arrest, false imprisonment, and negligent infliction of emotional distress) against individual Defendants, and Count 8 (negligent hiring, training, and supervision) with prejudice; dismissed Count 1 against the County of Erie without prejudice; dismissed Counts 4 and 7 without prejudice; and denied Defendants' motion regarding Count 6 (malicious prosecution). (Doc. 20 at 11–12.) Mr. Wekenmann filed an Amended Complaint on April 2, 2021, alleging one § 1983 claim against individual Defendants and one claim for malicious prosecution against all Defendants. (Doc. 22.)

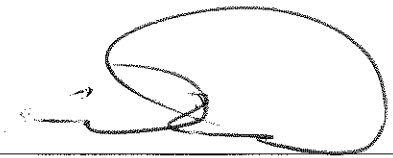
The scheduling and case management order dated November 9, 2021 set the following deadlines relevant to the pending motions: Stipulation of selection of mediator due by 12/15/2021; First mediation session due by 1/15/2022; Discovery completed by 5/1/2022. (Doc. 24.) On December 17, 2021, Defendants filed a letter requesting the appointment of Steven Modica, Esq., an approved mediator in the Western District of New York. (Doc. 25.) On December 20, 2021, Plaintiff filed a motion for appointment of the same mediator. (Doc. 26.) The court grants the motion to appoint Steven Modica, Esq. as mediator under the Western District of New York's Alternative Dispute Resolution Plan, Rule 5.5(C)(2).

On March 31, 2022, Plaintiff filed a motion to extend the court's scheduling order by 60 days to complete discovery and exchange expert witness information. (Doc. 27-1 ¶ 9.) Defendants have filed no opposition. Plaintiff's motion to extend the court's scheduling order is granted.

### **Conclusion**

Defendants' motion for appointment of mediator (Doc. 26) is GRANTED. The court appoints Steven Modica, Esq. as mediator. Plaintiff's motion to extend the court's scheduling order (Doc. 27) is GRANTED. Motions to Join Parties/Amend Pleadings due by 6/15/2022. First Mediation Session due by 6/15/2022. Defendant Expert Witness ID due by 8/1/2022. Plaintiff Expert Witness ID due by 8/1/2022. Discovery completed by 9/1/2022. Dispositive Motions due by 12/1/2022. Mediation To End by 12/1/2022.

Dated this 18<sup>th</sup> day of May, 2022.

  
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Geoffrey W. Crawford, Judge  
United States District Court